

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
CIVIL MINUTES**

Case Title :	West Coast Fence Co. Inc.	Case No :	10-47419 – A – 7
		Date :	11/15/10
		Time :	09:00
Matter :	[19] – Motion/Application for Relief from Stay Filed by Creditor West Coast Fence, Inc. (Fee Paid \$0.00) (pdes)		
	[19] – Motion/Application Directing the Debtor to Surrender Real Property Filed by Creditor West Coast Fence, Inc. (pdes)		
Judge :	Michael S. McManus		
Courtroom Deputy :	Sarah Head		
Reporter :	NOT RECORDED		
Department :	A		

APPEARANCES for :
Movant(s) :
None
Respondent(s) :
None

MOTION was :
Dismissed without prejudice
See final ruling below.

The court will issue a minute order.

Final Ruling: The motion will be dismissed without prejudice.

According to the certificate of service accompanying the motion, the motion was not served on the debtor. Fed. R. Bankr. P. 9013 and 9014(a) provide that a request for an order shall be made by a motion. Fed. R. Bankr. P. 9014(b) further provides that a motion must be served in the manner provided for service of a summons and a complaint. Fed. R. Bankr. P. 7004(b) permits service of a summons and a complaint by first class mail. But, nothing in Fed. R. Bankr. P. 7004 permits service to the debtor's attorney to the exclusion of the debtor. Contra Fed. R. Bankr. P. 7004(g). Accordingly, service is defective.

Also, counsel is reminded that all matters placed on the calendar must be given a unique docket control number as required by Local Bankruptcy Rule 9014-1(c).

Further, the movant has filed additional pleadings in support of the motion on November 3, 2010, only 12 days prior to the November 15 hearing. This is impermissible because it violates Local Bankruptcy Rule 9014-1(f), which requires all pleadings to be filed and served at least 14 days prior to the hearing. Local Bankruptcy Rule 9014-1(f)(2). Given the foregoing deficiencies, the motion will be dismissed without prejudice.